

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Mount Union Post Office
Mount Union, Iowa

Docket No. A2012-84

ORDER AFFIRMING DETERMINATION

(Issued March 5, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On November 29, 2011, Ben B. Johnson (Petitioner Johnson) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Mount Union, Iowa post office (Johnson Petition). An additional petition for review was received from Amanda Mullin.² The Final Determination to close the Mount Union post office is affirmed.³

II. PROCEDURAL HISTORY

On December 13, 2011, the Commission established Docket No. A2012-84 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

On December 14, 2011, the Postal Service filed the Administrative Record with the Commission.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

² Petition for Review received from Amanda Mullin regarding the Mt. Union, Iowa post office 52844, November 29, 2011 (Mullin Petition).

³ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁴ Order No. 1040, Notice and Order Accepting Appeal and Establishing Procedural Schedule, December 13, 2011.

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, December 14, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Mt. Union, Iowa Post Office and Establish Service by Rural Route Service (Final Determination).

⁶ United States Postal Service Comments Regarding Appeal, January 23, 2012 (Postal Service Comments).

Petitioner Johnson filed a participant statement supporting his Petition.⁷ On February 7, 2012, the Public Representative filed reply comments.⁸

III. BACKGROUND

The Mount Union post office provides retail postal services and service to 44 post office box or general delivery customers. Final Determination at 2.⁹ Two hundred fifty (250) delivery customers are served through this office. The Mount Union post office, an EAS-11 level facility, provides retail service from 8:30 a.m. to 12:30 p.m. and 2:00 p.m. to 4:45 p.m., Monday through Friday, and 8:30 a.m. to 9:30 p.m. on Saturday. Lobby access hours are 7 a.m. to 5 p.m., Monday through Friday, and 7 a.m. to 10:00 a.m. on Saturday. *Id.*

The postmaster position became vacant on October 31, 2007, when the postmaster resigned. An officer-in-charge (OIC) was installed to operate the office. Retail transactions average 22 transactions daily (24 minutes of retail workload). Post office receipts for the last 3 years were \$29,441 in FY 2008; \$28,254 in FY 2009; and \$36,899 in FY 2010. There are three permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$40,010 annually. *Id.* at 8.

After the closure, retail services will be provided by the Winfield post office located approximately 6 miles away.¹⁰ Delivery service will be provided by rural carrier through the Winfield post office. *Id.* at 10. The Winfield post office is an EAS-16 level office with retail hours of 8:30 a.m. to 12:30 p.m. and 2:00 p.m. to 4:30 p.m., Monday through Friday, and 8:30 a.m. to 10:00 a.m. on Saturday. *Id.* at 2. Two hundred

⁷ Participant Statement received from Ben B. Johnson, December 26, 2011 (Participant Statement).

⁸ Reply Comments of the Public Representative, February 7, 2012 (PR Comments).

⁹ The Final Determination contains no page numbers. For purposes of this Order, the cover page with date stamps is deemed to be page 1.

¹⁰ *Id.* at 2. Mapquest estimates the driving distance between the Mt. Union and Winfield post offices to be approximately 7.4 miles (14 minutes driving time).

eighty-two (282) post office boxes are available. *Id.* The Postal Service will continue to use the Mount Union name and ZIP Code. *Id.* at 5, Concern No. 18.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioners oppose the closure of the Mount Union post office. Petitioner Johnson argues that residents would be inconvenienced by not being able to purchase stamps and mail parcels at the post office. Johnson Petition at 1. He also raises concerns about the integrity of packages left outdoors by the carrier, suggesting they may be damaged by the elements. *Id.* Additionally, Petitioner Johnson expresses doubts about the Postal Service's estimated economic savings, noting that the postmaster position has been vacant since 2007 and that the employee who performs the postmaster duties collects a much lower salary. *Id.*; Participant Statement at 1. He claims that the Postal Service will continue to lose revenue to competitors if patrons are inconvenienced by the closure of this post office. Johnson Petition at 1. Petitioner Johnson proposes several cost-saving strategies that could be employed in lieu of closing the Mount Union post office. *Id.*

Petitioner Mullin contends that the Final Determination was predetermined by Postal Service management. Mullin Petition at 1. She also argues that the proposed closure will inconvenience permit mail customers such as her employer, the United Methodist Church, who will now have to make trips to the Winfield office to mail its newsletters. *Id.* In addition, she argues that cluster box units (CBUs) are an inadequate substitute for home delivery. *Id.*

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Mount Union post office. Postal Service Comments at 12. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Mount Union community; and (3) the economic savings expected to result from discontinuing the Mount Union post office. The Postal Service asserts that it has given these and other statutory issues serious consideration

and concludes that the determination to discontinue the Mount Union post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Mount Union post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 5. The Postal Service contends that it will continue to provide regular and effective postal services to the Mount Union community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioners regarding the effect on postal services, the effect on the Mount Union community, economic savings, and the effect on postal employees. *Id.* at 12.

Public Representative. The Public Representative recommends that the Commission remand the Postal Service's Final Determination to close the Mount Union post office. PR Comments at 4. He claims that the Postal Service did not accurately calculate the Mount Union post office's revenue. *Id.* at 2. He also alleges that the Postal Service failed to address concerns raised by Petitioner Mullin regarding the inconvenience faced by permit mailers and the possibility that her employer might stop mailing its monthly newsletters if the closure should take place. *Id.*

The Public Representative joins Petitioner Johnson in questioning the economic savings calculation set forth by the Postal Service. *Id.* at 3. Lastly, he contends that the

closure of the Mount Union Post Office may have been predetermined from the outset. *Id.*

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. On June 1, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Mount

Union post office. Final Determination at 2. A total of 294 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 89 questionnaires were returned. On June 20, 2011, the Postal Service held a community meeting at Mount Union Community Center to address customer concerns. Forty-three customers attended. *Id.*

The Postal Service posted the proposal to close the Mount Union post office with an invitation for comments at the Mount Union and Winfield post offices from July 29, 2011 through September 29, 2011. *Id.* The Final Determination was posted at the same two post offices from October 27, 2011 through November 28, 2011.

Administrative Record, Item No. 48.

Petitioner Mullin asserts that the decision to close the Mount Union post office was predetermined and that the community meeting was a mere “technicality.” Mullin Petition at 1. Likewise, the Public Representative argues that the decision to close the Mount Union post office may have been made before input from the community was solicited. PR Comments at 4. He claims that the Post Office Survey Sheet supports his theory, as it reflects that the current lease terminated only 5 days after the survey sheet was completed.¹¹ He alleges that if the closure of the Mount Union post office was not a foregone conclusion, the Postal Service would have made an effort to renew the lease. *Id.* As further support for his position, the Public Representative notes that in answers to several questions on the Post Office Survey Sheet, the field personnel response was “NA Management initiated study.” *Id.* The Postal Service responds to these arguments by arguing that “field personnel could not predetermine the outcome, because the final determination was approved at Headquarters....” Postal Service Comments at 4 n.7.

As a preliminary matter, the Postal Service’s reply to Petitioner Mullin can only be interpreted as non-responsive. Petitioner Mullin alleges that Postal Service Headquarters, not its field personnel, prejudged the outcome. The Postal Service does not address that claim, nor do the Postal Service’s comments, having been filed before

¹¹ Administrative Record, Item No. 15 at 1.

those of the Public Representative, address the basis for the Public Representative's claim that the closing was prejudged. In this circumstance, the only way to assess the prejudgment issue is by reference to the documentary evidence in the Administrative Record.

The Public Representative argues that the proximity of the lease termination date and the Post Office Survey Sheet completion date establishes that the discontinuance determination was prejudged. While the proximity of these two dates might be interpreted as evidence of predetermination, it does not necessarily establish that the discontinuance decision was predetermined. The Postal Service initiated its discontinuance study on March 24, 2011, as the April 30, 2011 lease termination date approached. Administrative Record, Item No. 1. This response to the impending lease termination can be viewed as nothing more than a routine, prudent step. Moreover, once the April 30, 2011 termination date arrived, the Postal Service continued to operate the Mount Union post office. See *id.*, Item No. 2 (stating there was no emergency suspension). Instead, it appears that the facility has remained in operation throughout the entire discontinuance process. The continued operation of the Mount Union post office preserved the possibility that the Postal Service might decide against its closure, a result inconsistent with a predetermined outcome favoring discontinuance.

A different question is presented by the responses given by field personnel to three questions on the Post Office Survey Sheet. See PR Comments at 4. Those questions inquire into the existence of subpar conditions at the current postal facility, the potential availability of alternative facilities, and the existence of possible community post office sites. See Administrative Record, Item No. 15, questions 1, 4, 5. The response given to each question was the same: "N/A Management initiated study." *Id.* The Public Representative interprets these responses as proof that local personnel were following directives from higher level management who had preordained the outcome of the discontinuance study. Another, less sinister, interpretation is that local personnel were simply acknowledging that the discontinuance study was being undertaken because higher level management wanted it undertaken and that local

personnel were not using the condition of the existing post office, the availability of alternative facilities, or the possibility that CPO sites existed, as a basis for the study. In short, the meaning of the cited questions and responses is ambiguous. Given their ambiguity, the answers to these three questions do not establish that the discontinuance study had a predetermined outcome. Instead, the propriety of the Postal Service's decision in this case depends upon whether, as discussed below, the record supports the Final Determination.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Mount Union, Iowa is an unincorporated community located in Henry County, Iowa. Final Determination at 7. The community is administered politically by the Mayor and City Council. Police protection is provided by the Henry County Sheriff. Fire protection is provided by the Mount Fire Department. The community is comprised of retirees, farmers, and those who commute to work at nearby communities and may work in local businesses. *Id.* Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Mount Union community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Mount Union post office, customers raised concerns regarding the effect of the

closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 2-6.

Petitioner Mullin argues that the Postal Service did not consider the effect the post office closing would have on the Mount Union community. Mullin Petition at 1. On the contrary, the Postal Service has taken the effect on the community into account and has explained that the community identity will be preserved by continuing the use of the Mount Union post office name and ZIP Code in addresses. Postal Service Comments at 9. The Postal Service also addressed the issue of community meeting spaces, stating that residents may meet at other venues in town and utilize the bulletin boards of other retail outlets and stores, as well as the bulletin board at the Winfield post office, for information exchange between members of the community. *Id.*

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the former postmaster retired on October 31, 2007 and that an OIC has operated the Mount Union post office since then. Final Determination at 2. It asserts that after the Final Determination is implemented, the temporary OIC will either be reassigned or separated and that no other Postal Service employee will be adversely affected. *Id.* at 12.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Mount Union post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. Petitioner Johnson expresses concerns about the inconvenience of requiring citizens to travel to the Winfield post office and the possibility of package contents becoming damaged from exposure to the elements. Johnson Petition at 1. Petitioner Mullin claims that permit mailers such as her employer, the United Methodist Church, will be inconvenienced by having to travel to the Winfield post office to mail their newsletters. Mullin Petition at 1.

The Postal Service contends that it has considered the effect the closing will have on postal services provided to Mount Union customers. Postal Service Comments

at 5. It asserts that customers of the closed Mount Union post office may obtain retail services at the Winfield post office located 6 miles away. Final Determination at 2. Delivery service will be provided by rural carrier service through the Winfield post office. *Id.* The Mount Union post office box customers may also obtain Post Office Box service at the Winfield post office, which has 282 boxes available. *Id.* The Postal Service states that when customers have medicine and other perishable items delivered, there will be instructions on the package so the carrier is able to leave the package in a location where it can be protected from the elements. *Id.* at 6.

For customers choosing not to travel to the Winfield post office, the Postal Service explains that retail services will be available from the carrier. *Id.* at 5. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox.¹² *Id.* at 6. As for permit mailers, the Postal Service indicated that administrative responsibility for permit accounts would be transferred to the Winfield post office. *Id.* at 4.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$40,010. Final Determination at 8. It derives this figure by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$3,000), minus the cost of replacement service (\$7,269). *Id.*

Petitioner Johnson asserts that the estimated savings are inaccurate. Johnson Petition at 1; Participant Statement at 1. He notes that the amounts saved are based on the salary and benefits of a postmaster rather than the OIC, who receives a lower salary and no benefits. Johnson Petition at 1; Participant Statement at 1. The Postal Service responds that discontinuing the Mount Union post office would eliminate a permanent

¹² Petitioner Mullin views CBUs as inadequate substitutes for home delivery. Mullin Petition at 1. The Postal Service responds by citing to those portions of the record that confirm mail will be delivered to rural mailboxes near customer residences. Postal Service Comments at 7-8.

career position, thereby allowing the Postal Service to avoid the cost of filling that position for the future. PR Comments at 10.

The Public Representative concurs with Petitioner Johnson's assertion that the Postal Service is inflating its cost savings estimates. PR Comments at 3. The Public Representative also alleges (without supporting citations) that the Postal Service's economic savings calculation is incorrect because it failed to account for the revenue brought in by permit mailers. *Id.* at 2.¹³

The Mount Union post office postmaster retired on October 31, 2007. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; and Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Mount Union post office has been staffed by an OIC for 4 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

Finally, Petitioner Johnson proposes a number of cost-saving strategies as alternatives to the closure of the Mount Union post office. Johnson Petition at 1; Participant Statement at 1. The Postal Service responds by asserting that, based on its experience, carrier service coupled with service at the Winfield post office is a more cost-effective solution. Postal Service Comments at 11. In this connection, it should be noted that the Final Determination itself discusses two other alternatives identified by customers, one which requires Congressional approval (5 versus 6-day delivery) and another that is already being implemented (reduction in management personnel). Final Determination at 5-6, Concern Nos. 16, 23.

¹³ Assuming the Public Representative is correct, neither the inclusion of permit mailing revenues for FY 2008 through FY 2010, nor their exclusion following closure, enter into the calculations relied upon by Postal Service when computing economic savings.

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Mount Union post office is affirmed.¹⁴

It is ordered:

The Postal Service's determination to close the Mount Union, Iowa post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

¹⁴ See footnote 3, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Mount Union post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster resigned on October 31, 2007. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

A non-career OIC has been in place for more than four years. Given this extended period of time, and the Postal Service's current financial difficulties, it is clear that the Postal Service has no obligation to maintain a full-time postmaster in small facilities such as Mount Union. Upon closure of the facility, the Postal Service may, at most, avoid continuing to pay the OIC level salary.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

The Administrative Record describes an increase in revenue from 2008 to 2010, indicating potential for growth from area businesses. This increase in revenue affirms the Petitioner's argument that the Postal Service did not adequately consider the impact on the community. Interest in the use of the mail in a community and the potential for growth should be considered as part of both the economic impact and the impact on the community. Therefore, the Postal Service did not adequately consider the impact of the closure on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

The Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Mount Union, Iowa and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility for nearly 5 years, since October, 2007, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

The Administrative Record also indicates that there are 2 postage meter and 1 permit holder customers. Administrative Record, Item No. 15 at 1. According to the Postal Service, it only counts retail window transactions and that revenue from permit/postage meter customers is not included because permit and postage meter customers typically use Bulk Mail Entry Units (BMEUs), carriers, or Postal Service drop boxes.¹ However, there is no indication in the Administrative Record if the permit customer utilizes BMEUs, carriers, or drop boxes. It is important for the Postal Service to accurately reflect all business activities at each post office to determine the potential impact on the community it serves.

In addition, taking into account a couple of factors, there may not be an economic savings of \$40,010, but a loss to the Postal Service. First, revenues for FY 2010 were \$36,899, which is a 31 percent increase over FY 2009 and does not include any permit or postage meter revenues. Second, there is a non-career employee in charge of the facility who does not receive fringe benefits of \$11,111 and may not receive a salary of \$33,168. Thus, there may not be any economic savings, but a loss. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

¹ See Docket No. A2012-78, Postal Service Comments at 10-11 n.24.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Mount Union post office and should be remanded.

Nanci E. Langley